
Proposed Main Modifications to the West Berkshire Local Plan Review (LPR) 2022-2039

Committee considering report:	Council
Date of Committee:	28 November 2024
Portfolio Member:	Councillor Denise Gaines
Date Head of Service agreed report: <i>(for Corporate Board)</i>	7 November 2024
Date Portfolio Member agreed report:	14 November 2024
Report Author:	Paula Amorelli
Forward Plan Ref:	C4630

1 Purpose of the Report

- 1.1 The report sets out that the West Berkshire Local Plan Review 2022-2039 (LPR) is still in the Examination Process and therefore the Council is still under the Direction set out in the letter from the Minister of State for Housing, Planning and Building Safety dated 19th December 2023 which requires the Council to continue the Plan through the Examination Process.
- 1.2 The Council is asked to consider the Schedule of Proposed Main Modifications to the West Berkshire Local Plan Review 2022-2039 (LPR) post hearing sessions earlier this year. Also, the updated Sustainability Appraisal/Strategic Environmental Assessment (SA/SEA) Report, addendum to the Habitat Regulations Assessment (HRA) and the Schedule of Proposed Changes to the Policies Map. The Council is asked to approve the publication of these documents for an 8-week period of public consultation as instructed by the Local Plan Inspector. This is a regulatory stage of the LPR process and requires Council resolution.

2 Recommendation(s)

- 2.1 That Council resolves that:
 - 1) It recognises that the Local Plan Review is still in the Examination Process and therefore, the Council is still under the Direction set out in the letter from the Minister of State for Housing, Planning and Building Safety dated 19th December 2023 that requires the Council to continue the Plan through the Examination Process.

- 2) The Schedule of Proposed Main Modifications to the West Berkshire Local Plan Review 2022-2039 is published in accordance with Section 20 7(c) of the Planning and Compulsory Purchase Act 2004 (as amended) for an 8 week period of consultation.
- 3) The accompanying updated Sustainability Appraisal/Strategic Environmental Assessment (SA/SEA) Report on the Proposed Main Modifications and addendum to the Habitats Regulations Assessment (HRA) of the Proposed Main Modifications are published in accordance with Section 20 7(c) of the Planning and Compulsory Purchase Act 2004 (as amended) for an 8 week period of consultation.
- 4) The Schedule of Proposed Changes to the Policies Map is published for an 8 week period of consultation.
- 5) Delegated authority is given to the Executive Director of Place in consultation with the Executive Portfolio Holder for Planning and Housing to agree any further non-material refinements to the wording of the LPR and its accompanying documentation as appropriate, before consultation.

3 Implications and Impact Assessment

Implication	Commentary
<p>Financial:</p>	<p>The Council is committed to producing planning policy documents within the stated timescale set out in the adopted Local Development Scheme. Budget has been made available to resource the Local Plan Review Examination through 2024/25. The full cost of the Local Plan Review can only be estimated at this stage as it is dependent upon the requirements of the Inspector. It is estimated that the cost of preparation of a plan through to adoption is in the region of £1.5m. The financial implications of not having an adopted Local Plan in place can exceed this should it become necessary for the Council to defend applications through appeal which can be in the region of £250-£300k per major appeal. Regular monthly budget monitoring is continuing and budget pressures will be identified and addressed.</p> <p>Should the Council decide not to progress in line with the Inspector’s instruction to publish the Schedules and the associated supporting documents for public consultation, in line with the Direction from the Minister, Central Government may intervene. The Council must reimburse the Secretary of State for any expenditure he incurs in connection with this intervention.</p>
<p>Human Resource:</p>	<p>The Local Plan Review has been in development since 2018 and has involved significant input from across the Council as well as external expertise. The Planning Policy team comprises of approximately 4.2 FTE as well as associated management support, working exclusively at times to progress with the actions required to continue through the process.</p>

Proposed Main Modifications to the West Berkshire Local Plan Review (LPR) 2022-2039

	Resources are required from across the Council to develop the policies and evidence base including Highways, Environment Delivery, Education, Legal, Infrastructure, Ecology, Public Health, Adult and Childrens Services, Countryside and Development Management. Preparation of the evidence base and representation at the Examination Hearings has required the support from 7 specialist consultants as well as legal representation including Counsel.			
Legal:	The Planning and Compulsory Purchase Act 2004 (as amended) requires the Council to keep under review the matters which may be expected to affect the development of its area or the planning of its development. The legal implications have been set out within the report. Should the Council not follow the requirements of the Inspector, it is highly likely that MHCLG will intervene.			
Risk Management:	There is a significant risk of government intervention should the Council decline to comply with the Inspector’s action points. This may result in MHCLG taking over the plan. In the event that Central Government took over the plan, the Council must reimburse the Secretary of State for any expenditure he incurs in connection with this intervention. Not having an adopted local plan will put the Council at risk of having to plan for the additional homes required by the new government housing methodology increasing the housing need from 495 to 1057 per annum. This would be likely to result in poor quality speculative development being granted at appeal with associated appeal costs and resourcing implications.			
Property:	No Council owned property is directly impacted			
Policy:	As outlined in the report			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				

Proposed Main Modifications to the West Berkshire Local Plan Review (LPR) 2022-2039

A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		Does not discriminate against any protected characteristic.
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		Does not discriminate against any protected characteristic.
Environmental Impact:	X			The full environmental Impacts will be considered through the Plans' Sustainability Appraisal and Strategic Environmental Assessment but has the potential to result in positive environmental impacts in some instances, arising from the policy requirements.
Health Impact:	X			There is the potential for increased opportunities for improved health indicators arising from the proposed additional homes and amenities.
ICT Impact:		X		None
Digital Services Impact:		X		None
Council Strategy Priorities:	X			Delivery of Priority Area 4 4.C - Continue to invest in key infrastructure and public transport. 4.D – Ensure that new housing development comes with suitable infrastructure and enhanced amenities.
Core Business:		X		

Data Impact:		X		
Consultation and Engagement:	Internal consultation on the proposals has taken place with relevant teams including legal officers and legal Counsel. Should the modifications be approved by Council, they will undergo an 8 week period of public consultation, in accordance with the statutory plan making process.			

4 Executive Summary

- 4.1 The West Berkshire Local Plan Review (LPR) is currently being independently examined by a Planning Inspector appointed by the Secretary of State. The Council was Directed by the Minister of State for Housing, Planning and Building Safety on 19th December 2023 to not withdraw the Plan and to progress it through the Examination Process (Appendix C).
- 4.2 Examination hearing sessions were held between 8 May and 3 October 2024 to discuss a number of issues upon which the Planning Inspector required clarification. The purpose of the discussions at the hearings was for the Inspector, the Council and participants to gain the fullest possible understanding of any Main Modifications that may be required to make the LPR sound and legally compliant.
- 4.3 Based on the outcomes of the hearing sessions and the additional work undertaken, at the request of the Inspector, the Council has now prepared a Schedule of Proposed Main Modifications to the LPR (Appendix D). The Inspector has made it clear in his latest note IN38 (Appendix E) that at this stage of the Examination these proposed Main Modifications are all necessary to address soundness issues.
- 4.4 It is important that any proposed Main Modifications do not undermine, or possibly undermine, the sustainability process that has informed the preparation of the LPR. The Council has therefore updated the SA/SEA Report (Appendix F) and produced an addendum to the Habitats Regulations Assessment (Appendix G), both of which accompany the LPR.
- 4.5 Any proposed Main Modifications to the LPR require consultation in accordance with Section 20 (7c) of the Planning and Compulsory Purchase Act 2004 (as amended) and the Local Plan Inspector has instructed the Council to progress to consultation. The Council is therefore being asked to consider the Schedule of Proposed Main Modifications to the West Berkshire Local Plan Review 2022-2039 (LPR), the updated Sustainability Appraisal/Strategic Environmental Assessment (SA/SEA) Report and addendum to the Habitat Regulations Assessment (HRA) and to approve these for publication for an 8 week period of public consultation from 6 December 2024 to 31 January 2025. As this is a regulatory period of consultation, views would be sought on the ‘soundness’ of the proposed Main Modifications. The responses received will then be considered by the Inspector in the preparation of his final report.

- 4.6 The Council is required to geographically illustrate policies contained in the LPR on a Policies Map. A number of the proposed Main Modifications to the Plan's policies do require further corresponding changes to be made to the Policies Map (Appendix H). The Council would therefore seek comments on these changes at the same time.
- 4.7 The risks of not following the Inspector's requirements is highly likely to result in intervention from the Ministry for Housing, Communities and Local Government (MHCLG) who could take over the process and charge the Council for its time taken in this intervention. Recent discussions with MHCLG have confirmed that the Council is still within the Examination Process and that under the Direction set out in the letter dated 19th December 2023 (Appendix C), the Council is required to continue the Plan through the Examination Process.
- 4.8 The Council has sought legal advice regarding the consequences of not following the Government Direction and this reinforces the position as set out above.

5 Supporting Information

Introduction

- 5.2 The West Berkshire Local Plan Review (LPR) is currently being independently examined by a Planning Inspector appointed by the Secretary of State. The Inspector's role is to assess whether the LPR has been prepared in accordance with the Duty to Cooperate, legal and procedural requirements and whether it is sound (positively prepared, justified, effective and consistent with national policy). If the Inspector concludes that the LPR is sound and meets the necessary tests, it can then be adopted by the Council and will form part of the Development Plan for the District.
- 5.3 The Inspector is examining the LPR as it was submitted to the Secretary of State in March 2023. Examination hearing sessions were held between 8 May and 3 October 2024 to discuss a number of issues upon which the Inspector required clarification. The purpose of the discussions at the hearings was for the Inspector, the Council and participants to gain the fullest possible understanding of any Main Modifications that may be required to make the LPR sound and legally compliant.
- 5.4 During the hearing sessions, the Inspector asked the Council to undertake additional work on a number of issues. He did this through a series of Action Points issued between May and October. The Inspector then sought additional comments on this work from those participants who attended the relevant hearing sessions.
- 5.5 Based on the outcomes of the hearing sessions and the additional work undertaken, at the request of the Inspector, the Council has now prepared a Schedule of Proposed Main Modifications to the LPR (Appendix D). The Inspector has made it clear that at this stage of the Examination he has concluded that these proposed Main Modifications are all necessary to address soundness issues and will be effective in so doing. However, this is without prejudice to his final conclusions which will ultimately be made having regard to representations in response to the forthcoming public consultation, in addition to all of the evidence currently before him.

5.6 The Council was invited by the Inspector to make a formal request under section 20(7C) of the Planning and Compulsory Purchase Act 2004 (as amended) for him to recommend Main Modifications to the LPR. The Council has not yet made this formal request.

Schedule of Proposed Main Modifications

5.7 The proposed Main Modifications are set out as a schedule in Appendix D with either the conventional form of strikethrough for deletions and underlining for additions of text. The proposed modifications are made to the LPR as submitted to the Secretary of State in March 2023. There are a number of modifications that need to be made, but the main changes can be summarised as follows:

- **Housing requirement**

Over the course of the Examination it has been necessary to extend the plan period to 2041, instead of 2039. As a result, this has increased the overall housing requirement for the Plan from at least 8,721 net additional dwellings per annum to at least 9,270 net additional dwellings per annum. These changes have been made to policy SP12 (MM18 and MM19).

- **Housing land supply**

As a result of an increased housing requirement to cover the plan period, it has been necessary to increase the housing supply identified in the Plan. This has led to the identification of four additional deliverable sites that would boost the housing supply in the five years post adoption of the Plan. These are:

Site Ref	Site Name	Approx no. of dwellings
CA12	Land at Henwick Park, Bowling Green Road, Thatcham	225
CA17	Regency Park Hotel, Bowling Green Road, Thatcham	45
PAN8	Land north of Pangbourne Hill, Pangbourne	25
TIL13	Land at Pincents Lane, Tilehurst	138
TOTAL		433

New policies for these additional sites are set out at MM42, MM43, MM45 and MM57.

- **Settlement boundaries**

Some modifications have been proposed to settlement boundaries to ensure they are consistent with the Settlement Boundary Review Criteria, accurately reflecting the allocated sites and other features within the built-up areas, such as Designated Employment Areas (at Thatcham) and/or Retail Parks (at Tilehurst).

- **North East Thatcham strategic allocation**

Modifications have been proposed to policy SP17 and its supporting text (MM25 and MM26) to respond to representations made by stakeholders and ensure the policy is

effective in delivering a strategic urban extension to Thatcham. The scale of development on the site has been increased and there is a clear policy direction requiring the production of a Supplementary Planning Document (SPD) for the site to provide a framework for future development proposals and add further detail to the policy.

- **Provision of affordable housing**

Main Modifications have been proposed to policy SP19 to bring the policy in line with the National Planning Policy Framework (NPPF) and ensure provision of affordable housing on sites of between 5 and 9 dwellings is only sought in areas designated as rural under Section 157 of the Housing Act 1985 (MM28 and MM29).

- **New Development Management policy on RAF Welford and Denison Barracks**

To ensure that operational defence sites are not affected adversely by the impact of other development proposed in the area a new Development Management policy is proposed to cover RAF Welford and Denison Barracks. This change (MM94) is in response to representations made by the Defence Infrastructure Organisation (DIO) on behalf of the Ministry of Defence and ensures the LPR is consistent with national policy.

The above highlights some of the main changes proposed to the LPR, but it is important to note that changes have been proposed to a number of other policies to ensure they are effective in their implementation, consistent with national policy and to provide clarity. The full Schedule of Proposed Main Modifications is set out in Appendix D.

Sustainability Appraisal (SA) / Strategic Environmental Assessment (SEA)

- 5.8 The Planning and Compulsory Purchase Act 2004 requires a Sustainability Appraisal (SA) and a Strategic Environmental Assessment (SEA) to be carried out for all development plan documents. Both of these appraisals can be carried out in one appraisal process. In order to avoid any confusion, all references to the SA will refer to both the SA and the SEA.
- 5.9 The objective of the SA is to promote sustainable development through the integration of social, environmental and economic considerations in the preparation of the LPR. The SA focuses on the significant sustainability effects of the LPR and considers alternatives that take into account the social, environmental and economic objectives and the geographical scope of the document.
- 5.10 The proposed Main Modifications have been reviewed and the SA/SEA updated where required. The updated SA/SEA, including a non-technical summary, is attached as Appendix F.
- 5.11 The proposed Main Modifications have not resulted in any significant changes to the outcome of the SA/SEA and are not considered to impact on the overall sustainability of the LPR.

Habitats Regulations Assessment (HRA)

- 5.12 European legislation and government regulations mean that a Habitats Regulations Assessment (HRA) needs to be carried out for the LPR, in order to protect the integrity of internationally important nature conservation sites. These sites, collectively known as Natura 2000 sites include Special Areas of Conservation (SACs) and Special Protection Area (SPAs).
- 5.13 The HRA assesses the likely impacts of the policies of the LPR and possible 'in combination' effects with other policies and proposals.
- 5.14 The proposed Main Modifications have been reviewed and the HRA updated where required. An addendum to the submission HRA Screening Report has been produced which considers the proposed Main Modifications to the LPR (Appendix G). It also takes into account the proposed Additional Modifications, the minor changes necessary to improve the clarity of the document, correct factual information, and correct typographical errors. The proposed Main Modifications have not resulted in any significant changes to the outcome of the HRA and are not considered to impact on the overall integrity of internationally important nature conservation sites.

Policies Map

- 5.15 The Council is required to geographically illustrate policies contained in the LPR on a Policies Map. As the LPR Policies Map is not a Development Plan Document the Inspector is unable to recommend Main Modifications to it. However, a number of the published Main Modifications to the Plan's policies do require further corresponding changes to be made to the Policies Map. The Council is therefore proposing a number of changes to it rather than main modifications (Appendix H). This is to ensure that it is factually correct and provides an accurate representation of the Local Plan policies. The Council would therefore seek comments on these changes at the same time.

Next steps

- 5.16 Any proposed Main Modifications to the LPR require consultation in accordance with Section 20 (7c) of the Planning and Compulsory Purchase Act 2004 (as amended) and the Local Plan Inspector has instructed the Council to progress this consultation. In line with this instruction and the Direction from Central Government to progress the Plan through the Examination Process which is still underway, the Council is asked to approve the Schedule of Proposed Main Modifications and to undertake public consultation. This will take place for an 8 week period from 6 December 2024 to 31 January 2025. Representations will be sought on the documents below as follows:
- Schedule of Proposed Main Modifications to the LPR setting out the changes being proposed by the Council in order to address issues of "soundness" identified by the Planning Inspector during the Examination Process;
 - Updated Sustainability Appraisal;
 - Addendum to the Habitats Regulations Assessment; and

- Schedule of Proposed Changes to the Policies Map

5.17 The Council will also publish a Schedule of Proposed Additional Modifications comprising modifications of a minor nature to update the LPR, to correct errors and to provide clarification in interpreting the policies of the LPR. This would not be subject to public consultation and so would not be considered by the Inspector, but would be published for information only.

5.18 Following the consultation the Council will be able to make a brief written response to any submissions received. All submissions and the Council's response will then be sent to the Inspector so that he can prepare his final report. If the Inspector concludes that the LPR is sound and meets the necessary tests, it can then be adopted by the Council and form part of the Development Plan for the District.

6 Other options considered

6.1 The Council may choose not to follow the recommendations of the Inspector. However, this would be contrary to the Direction letter from the Minister of State for Housing, Planning and Building Safety issued on 19th December 2023 (Appendix C) which requires the Council to continue the Plan through the Examination Process. This Direction states:

'1. Per section 27(2)(b): Not to take any step to withdraw the plan from examination and report monthly (from the date of this letter) to my officials on the progress with the examination. In accordance with section 27(8) of the 2004 Act, the Secretary of State's reason for making this direction is to avoid the unnecessary additional delay to having an up-to-date plan in place and additional expense that withdrawing the plan and preparing a new plan would cause.

2. Per section 27(4)(b): On conclusion of the examination, to publish the Planning Inspector's recommendations and reasons.

3. Per section 27(5)(b): On conclusion of the examination, to consider adopting the plan, including any main modifications recommended by the Planning Inspector deemed necessary to make the plan sound. In accordance with section 27(8) of the 2004 Act, the Secretary of State's reason for making this direction is to give the people of West Berkshire the best chance of having a sound local plan adopted in the near future, protecting the area in which they live from speculative development.

The above directions:

1. do not prevent the Council from deciding to continue progressing the plan through examination; and

2. will remain in force until withdrawn by the Secretary of State.'

6.2 MHCLG has recently confirmed to officers that the Council is still in the Examination Process and has been directed to continue with the Plan in accordance with the Direction letter of 19th December 2023.

- 6.3 The Council has sought further external legal advice regarding the consequences of not following the Government Direction. This advice reinforces the position as set out above and has confirmed that if the Council does not proceed in line with the Inspector's instructions, the Government is likely to intervene and the process is highly likely to continue in any event. The Council must then reimburse the Secretary of State for any costs associated with this intervention. In this event, the Council will no longer have any control over further expenditure to conclude the process. Counsel has advised that the Council must understand the risks and consequences which are set out above. Given the time that this has taken and the resource invested, Counsel's view is that it is highly likely that the Secretary of State would intervene if the Council now ceases to continue with the next steps required for the Local Plan to be adopted.
- 6.4 It is therefore clear that failure to follow the Instructions is likely to lead to further intervention from Central Government and the production of the Local Plan Review would then be taken over, further eroding any influence on the plan making process and leading to additional costs. Central Government would charge the Council for the cost of this intervention. Alternatively, the Inspector may proceed to issue his final report declaring the plan unsound. The Council would then be required to start the plan making process again, adhering to the revised NPPF and a likely significantly increased housing need (increase from 495 to 1057 under the proposed new methodology), plus the additional cost of a new Plan. The Council would lose the protection afforded by having an adopted local plan and the ability to demonstrate a 5-year housing land supply leading to unacceptable speculative development and costly appeals. The sites identified for development in the Local Plan are highly likely to come forward as planning applications and in the absence of a Local Plan, the Council would have no up to date policy in place to secure high quality, infrastructure rich development.

7 Conclusion

- 7.1 The LPR is still in the Examination Process. The Inspector examining the West Berkshire Local Plan Review 2022-2039 has made it clear that at this stage of the Examination that the proposed Main Modifications set out in the Schedule of Proposed Main Modifications to the West Berkshire Local Plan Review 2022-2039 (LPR) in Appendix D are necessary to address soundness issues. Any proposed Main Modifications to the LPR require consultation in accordance with Section 20 (7c) of the Planning and Compulsory Purchase Act 2004 (as amended) and the Inspector has instructed the Council to progress to public consultation. As the Council is under Direction from Central Government to progress the LPR through the Examination Process and not to withdraw the Plan, the Council is asked to approve the Schedule of Proposed Main Modifications to the LPR, the updated Sustainability Appraisal, the addendum to the Habitats Regulations Assessment; and the Schedule of Proposed Changes to the Policies Map for public consultation for an 8 week period from 6 December 2024 to 31 January 2025.

8 Appendices

Appendix A – Equalities Impact Assessment

Appendix B – Data Protection Impact Assessment

Proposed Main Modifications to the West Berkshire Local Plan Review (LPR) 2022-2039

Appendix C – Letter from Minister of State for Housing, Planning and Building Safety dated 19 December 2023

Appendix D – Schedule of Proposed Main Modifications to the West Berkshire Local Plan Review 2022-2039

Appendix E – IN38: Main Modifications consultation note

Appendix F - updated Sustainability Appraisal/Strategic Environmental Assessment (SA/SEA) Report (including a non-technical summary)

Appendix G - Addendum to the Habitat Regulations Assessment (HRA)

Appendix H – Proposed Changes to the Policies Map

Corporate Board’s recommendation

Background Papers:

West Berkshire Local Plan Review 2022-2039 (as submitted)

West Berkshire Local Plan Review Examination website

Subject to Call-In: Yes: No:

- The item is due to be referred to Council for final approval
- Delays in implementation could have serious financial implications for the Council
- Delays in implementation could compromise the Council’s position
- Considered or reviewed by Scrutiny Commission or associated Committees, Task Groups within preceding six months
- Item is Urgent Key Decision
- Report is to note only

Wards affected: All

Officer details:

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Proposed Main Modifications to the West Berkshire Local Plan Review (LPR) 2022-2039

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